



SC

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
CHATTANOOGA ENVIRONMENTAL FIELD OFFICE
540 McCALLIE AVENUE, SUITE 550
CHATTANOOGA, TENNESSEE 37402
PHONE (423) 634-5745 STATEWIDE 1-888-891-8332 FAX (423) 634-6389

September 16, 2010

Mr. Edward Kirksey
177 Kirksey Drive
Ocoee, TN 37361

Subject: Notice of Violation
Compliance Evaluation Inspection (CAFO)
Permit No. TN0080659

Dear Mr. Kirksey:

On September 10, 2010 Ms. Angela Young and Ms. Jennifer Innes performed a Compliance Evaluation Inspection of Kirksey Farms. The purpose of the inspection was to determine the facility's compliance with the terms and conditions of NPDES Permit Number TN0080659.

CEI Results

Permit

NPDES Permit Number TN0080659 became effective on May 01, 2009. Although your permit does not expire until December 31, 2011, changes in EPA CAFO's regulations have caused the Division to make many changes to our CAFO rules. Therefore your farm will be issued a new permit called a State Operating Permit. This permit covers CAFO operations that are not designed to have a discharge. Enclosed in this inspection report are the new permit application and other information regarding the issuance of your new permit. Please submit this application and other necessary documents by June 11, 2011.

Records and Reports

Although some records are available on site, A copy of you permit was not available at the time of the inspection and you are keeping records of how much litter is being transferred to a third party. Additionally you are not maintaining records of your mortalities. **Please refer to the attached copy of your permit for instructions on what records you are required to keep on site.**

Please note you must submit an annual report between January 1 and February 15, 2011. Information on the requirements of the annual report is located on page 5 of your permit.

September 16, 2010

Page 2

Comprehensive Nutrient Management Plan (CNMP)

A copy of CNMP is kept on site. Although some components of the CNMP are being followed, there are many other components that are not being followed.

Manure Management

All litter is transported off site. There are no written records of how many tons are transferred to a third party. No current litter analysis was available for review.

Mortality Management

Mortalities are being composted as specified in your CNMP
TN0080659

Permit Violations

Failure to maintain proper records is a violation of Part I D.2. of NPDES Permit No. TN0080659

Failure to follow Nutrient Management Plan is a violation of Part III C. of NPDES Permit No. TN0080659.

Copies of the permit sections with violations have been enclosed to assist you.

A written response to this Notice should be received by this office by October 16, 2010 as to what actions were taken to remediate the above listed violations.

The Division would like to thank Mr. Kirksey for his time and cooperation during our inspection. If you have any questions concerning our inspection, please contact Ms. Young at 634-5708.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Urban", is written over a large, loopy circular mark.

Richard D. Urban Ph. D.
Field Office Manager
Division of Water Pollution Control
Chattanooga, Tennessee

Enclosures

Cc: Erin O'Brien, Permit Section Division Water Pollution Control, Nashville, TN

- a. The exact place, date and time of sampling;
- b. The exact person(s) collecting samples;
- c. The dates and times the analyses were performed;
- d. The person(s) or laboratory who performed the analyses;
- e. The analytical techniques or methods used, and;
- f. The results of all required analyses.

D. INSPECTION, RECORD KEEPING, AND REPORTING

1. Inspections

Daily inspections of all water lines, including process wastewater, drinking and cooling water are required.

Weekly inspections are also required for the following:

- a. All storm water diversion devices, runoff diversion structures and devices channeling contaminated storm water to the wastewater and manure storage and containment structure, and
- b. Levels in all liquid impoundments to insure minimum capacity necessary to contain the runoff and direct precipitation of a 25-year, 24-hour rainfall event.

2. Record Keeping

The following records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation, shall be retained on site for a minimum of five years, or longer, if requested by the division:

- a. A copy of the CAFO's comprehensive nutrient management plan and records of its annual review;
- b. Records documenting the following visual inspections:
 - i. Weekly inspections of all storm water diversion devices, runoff diversion structures and devices channeling contaminated storm water to the wastewater and manure storage and containment structure,
 - ii. Daily inspections of water lines, including drinking or cooling water lines, and
 - iii. Weekly inspections of the manure, litter, and process wastewater impoundments noting the liquid level in the impoundments;
- c. Weekly records of the level of the manure and process wastewater in the liquid impoundment;
- d. Records documenting any corrective actions taken (if deficiencies are not corrected within 30 days of notice of deficiency, the records must include an explanation of the factors preventing immediate correction);
- e. Records of mortalities management and practices used to comply with the comprehensive nutrient management plan;

- f. Records documenting the current design of any manure or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity;
- g. Records of the date, time, and estimated volume of any overflow;
- h. Expected and actual crop yields;
- i. The date(s) manure, litter, or process wastewater is applied to each field;
- j. Weather conditions at time of application and for 24 hours prior to and following application;
- k. Test methods used to sample and analyze manure, litter, process wastewater, and soil;
- l. Results from manure, litter, process waste water, and soil sampling;
- m. Explanation of the basis for determining manure application rates, as provided in the technical standards established by the NRCS or as otherwise approved by the director or the Tennessee Department of Agriculture (TDA);
- n. Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;
- o. The method used to apply the manure, litter, or process wastewater;
- p. Date(s) of manure application equipment inspection and calibration; and
- q. A log of all measurable rainfall events.

3. Annual Report

The permittee must submit an annual report between January 1 and February 15 to both TDA and TDEC that includes:

- a. The number and types of animals on site whether in open confinement or housed under roof;
- b. Estimated amount of total manure and/or litter generated by the CAFO in previous calendar year (tons);
- c. Estimated amount of total manure, and/or litter transferred to a third party by the CAFO in the previous calendar year (tons);
- d. Total number of acres for land application covered by the comprehensive nutrient management plan;
- e. Total number of acres under control of the CAFO that were used for land application of manure and/or litter in the previous calendar year;
- f. A summary of all manure and/or litter discharges to waters of the state from the production area that have occurred in the previous calendar year, including date, time, and approximate volume; and
- g. A statement indicating whether the current version of the CAFO's comprehensive nutrient management plan was developed or approved by a certified nutrient management planner.

4. Falsifying Reports

Knowingly making any false statement on any report required by this permit may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Water Pollution Control Act, as amended, and in Section 69-3-115 of the Tennessee Water Quality Control Act.

division has determined that this operation which is authorized only to discharge uncontaminated stormwater runoff, when properly designed, constructed, maintained, and operated, should not contribute to the degradation of the receiving waters. The department has maintained, and shall continue to assess, the water quality of the stream to assure that the water quality is adequate to protect the existing uses of the stream fully, and to assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for non-point source control.

C. COMPREHENSIVE NUTRIENT MANAGEMENT PLAN (CNMP)

The permittee has developed and submitted for state approval from TDA a comprehensive nutrient management plan (CNMP). The CNMP was prepared in accordance with NRCS *Field Office Conservation Practice Standards* and/or the NRCS Animal Waste Handbook. The CNMP must be kept on site. The CNMP is available for public review at the Nashville central office, the Chattanooga Environmental Field Office and the TDA Ellington Agriculture Center. The permittee must have all measures, structures, etc., of the CNMP in place and fully implemented upon the date of permit issuance.

In addition to NRCS technical standards, the plan must address facility maintenance until all manure and/or litter is transferred to a third party or land applied in accordance with the comprehensive nutrient management plan.

The permittee will annually review and update the CNMP whenever there have been significant changes that affect the amount of manure produced, such as the number of animals on site; changes in how the manure is handled, stored, transferred, or land applied; or changes to how animal mortalities are handled. The permittee shall notify the director of these changes per subpart II. J. An operator desiring to make changes to their CNMP shall notify and receive approval from TDA.

D. BEST MANAGEMENT PRACTICES (BMPs)

The division has determined that the following BMPs, beyond those contained in the Comprehensive Nutrient Management Plan (CNMP), are necessary to protect the classified uses of the streams and water quality in Tennessee.

1. There must not be land application of nutrients including manure, litter or process waste water, within 24 hours of a precipitation event that may cause runoff from the fields. The operator shall not land apply nutrients to frozen, flooded, or saturated soils when the potential for soil compaction and rut creation is high.
2. Wastewater control and retention structures or holding pens for new CAFOs and existing CAFOs that are intending to undergo significant expansion shall meet the construction requirements as identified in TDEC Rule 1200-4-5-.14(19).
3. Application of manure, litter, and/or process wastewater shall be applied in accordance with setbacks established for potable wells, public or private, as required by TDEC Rule 1200-4-5-.14(17).
4. The owner/operator shall prevent discharge of pesticide-contaminated waters into retention structures. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the management of potentially hazardous or toxic chemicals



Tennessee Department of Environment and Conservation,
Division of Water Pollution Control
401 Church Street, 6th Floor L & C Annex, Nashville, TN 37243
(615) 532-0625

**CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)
STATE OPERATING PERMIT (SOP)
NOTICE OF INTENT (NOI)**

Type of permit you are requesting: ☐ SOPCD0000 (designed to discharge) ☐ SOPC00000 (no discharge) ☐ Unknown, please advise
Application type: ☐ New Permit ☐ Permit Reissuance ☐ Permit Modification
If this NOI is submitted for Permit Modification or Reissuance provide the existing permit tracking number: _____

OPERATION IDENTIFICATION

Operation Name:		County:	
Operation Location/ Physical Address:		Latitude:	
		Longitude:	
Name and distance to nearest receiving water(s):			
If any other State or Federal Water/Wastewater Permits have been obtained for this site, list those permit numbers:			
Animal Type: <input type="checkbox"/> Poultry <input type="checkbox"/> Swine <input type="checkbox"/> Dairy <input type="checkbox"/> Beef <input type="checkbox"/> Other _____			
Number of Animals:		Number of Barns:	
Name of Integrator:			
Type of Animal Waste Management: (check all that apply)		<input type="checkbox"/> Dry <input type="checkbox"/> Liquid <input type="checkbox"/> Liquid, Closed System (i.e. covered tank, under barn pit, etc.)	
Attach the NMP <input type="checkbox"/> NMP Attached		Attach the closure plan <input type="checkbox"/> Closure Plan Attached	
Attach a topographic map <input type="checkbox"/> Map Attached			

PERMITTEE IDENTIFICATION

Official Contact (applicant):		Title or Position:		<input type="checkbox"/> Correspondence <input type="checkbox"/> Invoice	
Mailing Address:		City:	State:		Zip:
Phone number(s):		E-mail:			
Optional Contact:		Title or Position:		<input type="checkbox"/> Correspondence <input type="checkbox"/> Invoice	
Address:		City:	State:		Zip:
Phone number(s):		E-mail:			

APPLICATION CERTIFICATION AND SIGNATURE (must be signed in accordance with the requirements of Rule 1200-4-5-.05)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and title; print or type	Signature	Date
-------------------------------	-----------	------

STATE USE ONLY

CAFO NOTICE OF INTENT INSTRUCTIONS

Background. All operations defined as CAFOs (concentrated animal feeding operation) must seek coverage under a permit. Operations that meet the Class II size criteria (TDEC Rule 1200-4-5-.14) and that discharge or that propose to discharge (...if designed, constructed, operated or maintained such that a discharge will occur) need coverage under the General State Operating Permit (SOP) for Concentrated Animal Feeding Operations, Permit Number SOPCD0000. Operation meeting the size criteria for either a Class I or Class II operation that do not discharge and that do not propose to discharge, but otherwise meet criteria in state rules need coverage under the General State Operating Permit (SOP) for Concentrated Animal Feeding Operations (CAFOs), Permit Number SOPC00000. AFOs (animal feeding operations) meeting or exceeding the size thresholds in column 1 of table 1200-4-5-.14-.1 are considered large (Class I) CAFOs. Class I CAFOs that propose to discharge must apply for an individual NPDES permit (application forms are available at: <http://www.state.tn.us/environment/permits/h2oforms.shtml>). All other CAFOs must apply for a state permit using this form. This form must be submitted at least 180 days before a CAFO commences operation.

Complete the form. Type or print clearly, using black or blue ink; not markers or pencil. Answer each item or enter "N/A." for not applicable. If you need additional space, attach a separate piece of paper to the NOI. Applicants must submit a NMP (Nutrient Management Plan), and a closure plan along with this NOI. **The application will be considered incomplete without supplying all of the required information.**

Operation Identification. Describe and locate the project, use the legal or official name of the facility or site. Provide the latitude and longitude (expressed in decimal degrees) of the center of the site, which can be located on USGS quadrangle (i.e. topographic) maps. Topographic maps may be obtained at the USGS website: <http://store.usgs.gov>. Attach a copy of a portion of a 7.5 minute quad map (i.e. 1:24,000-scale topographic map), showing location of site, with boundaries at least one mile outside the site boundaries.

Permittee Identification. Official Contact – Provide the name, telephone number, address, and E-mail address of the person or corporation which proposes to operates or operates and/or profits from this AFO. **Facility Contact** – Provide the name, telephone number, address, and E-mail address of the person most familiar with the operation and with the facts reported in the NOI. This person may be contacted by the division, if necessary. Indicate where to send correspondence and invoices.

Fees. There is no application fee for this permit. An annual maintenance fee may be required and you will be invoiced at a later date.

Submitting the form and obtaining more information. Note that this form must be signed by the chief executive officer, owner, or highest ranking elected official. Submit a complete application to both the Tennessee Department of Agriculture (TDA) and to TDEC-WPC; keep a copy for your records. Original documents should be sent to TDEC-WPC and a copy should be sent to TDA, at the addresses below:

CAFO Notice of Intent TDEC Division of Water Pollution Control 401 Church Street 6th Floor L&C Annex Nashville, TN 37243	CAFO Notice of Intent Water Resources TDA-Ellington Agricultural Center PO Box 40627 Nashville, TN 37204
--	--

Upon receipt of the required items the division will conduct a review of the material, and notify the applicant of any deficiencies. Notification may also come from the Tennessee Department of Agriculture, which reviews the NMP. When all the deficiencies have been corrected, the division will process the NOI and issue permit coverage.

The division has the right to inspect a facility when deemed necessary. In addition, the division has the right to revoke or suspend any permit for violation of permit conditions or any other provisions of the Tennessee Water Quality Control Act and other water pollution control rules.

The division is responsible for regulating any activity, which involves a potential discharge in order to protect waters of the State from pollution and to maintain the highest possible standards in water quality.

Obtaining more information/assistance For more information or assistance, contact your local Environmental Field Office (EFO), toll-free, at 1-888-891-8332 (TDEC) or at the number listed below.

EFO	Street Address	City	Zip Code	Telephone
Chattanooga	540 McCallie Avenue STE 550	Chattanooga	37402	(423) 634-5745
Columbia	1421 Hampshire Pike	Columbia	38401	(931) 380-3371
Cookeville	1221 South Willow Ave.	Cookeville	38506	(931) 432-4015
Jackson	1625 Hollywood Drive	Jackson	38305	(731) 512-1300
Johnson City	2305 Silverdale Road	Johnson City	37601	(423) 854-5400
Knoxville	3711 Middlebrook Pike	Knoxville	37921	(865) 594-6035
Memphis	8383 Wolf Lake Drive	Bartlett	38133	(901) 371-3000
Nashville	711 R S Gass Boulevard	Nashville	37216	(615) 687-7000

Received Date	Reviewer	EFO	T & E Aquatic Fauna	Tracking No.
	Impaired Receiving Stream	High Quality Water		NOC Date

(continued)



United States Environmental Protection Agency
Washington, D. C. 20460
Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction 1	Code 2	NPDES 3	yr / mo / day 12	Inspection Type 17	Inspector 19	Facility Type 20
5	T N 0 0 8 0 6 5 9	1 0 0 9 1 0	2	S	=	
Remarks 66						
Inspection Work Days 67	Facility Self - Monitoring Rating 70	BI 71	QA 72	Reserved 73 74 75 80		
1 0	3	N	N			

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Kirksey Farms 177 Kirksey Dr. Ocoee, Tn.37361	Entry Time / Date 1445/9/10/2010	Permit Effective Date 5/01/2009
	Exit Time / Date 1550/9/10/2010	Permit Expiration Date 12/31/2011
Name(s) of Onsite Representative(s) / Title(s) / Phone and Fax Number(s) Edward Kirksey (Owner)	Other Facility Data (e.g., SIC NAICS, and other descriptive information)	
Name, Address of Responsible Official / Title / Phone and Fax Number Same	Contacted <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input checked="" type="checkbox"/> Permit	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input checked="" type="checkbox"/> Records / Reports	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pollution Prevention	<input checked="" type="checkbox"/> CAFO
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input type="checkbox"/> Storm Water	
<input type="checkbox"/> Effluent/ Receiving Waters	<input type="checkbox"/> Operation & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

Section D: Summary of Findings / Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
B O A 1 2	Failure to conduct self inspections
B O A 4 1	Failure to maintain Records

Name(s) and Signature of Inspector Angela Young, Environmental Specialist IV	Agency / Office / Phone and Fax Numbers State Of Tennessee Division of Water Pollution Control Chattanooga Environmental Field Office Phone: (423) 634-5745 Fax: (423) 634-6389	Date 9/17/10
Name(s) and Signature of Inspector	Agency / Office / Phone and Fax Numbers State Of Tennessee Division of Water Pollution Control Chattanooga Environmental Field Office Phone: (423) 634-5745 Fax: (423) 634-6389	Date
Signature of Management Q.A. Reviewer Richard D. Urban, PhD.	Agency / Office / Phone and Fax Numbers State Of Tennessee Division of Water Pollution Control Chattanooga Environmental Field Office Phone: (423) 634-5745 Fax: (423) 634-6389	Date 9/20/10

